



In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 26.09.2024
CR No.6711 of 2018(O&M)

1.

Surjit Kaur LoetyPetitioner

Versus

State of Punjab and othersRespondents

Present: Mr. D.V. Sharma, Senior Advocate with
Ms. Shivani Sharma, Advocate for the petitioner.

Ms. Shruti, AAG, Punjab.

Mr. Anand Chibbar, Senior Advocate with
Mr. Amitabh Tewari, Advocate for respondents No.5 to 9.

2.

CR No.1342 of 2024(O&M)

M/s Ritesh Industries Ltd. and othersPetitioners

Versus

State of Punjab and othersRespondents

Present: Mr. Anand Chibbar, Senior Advocate with
Mr. Amitabh Tewari, Advocate for the petitioners.

Ms. Shruti, AAG, Punjab.

Mr. D.V. Sharma, Senior Advocate with
Ms. Shivani Sharma, Advocate for respondent No.5.

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

RITU TAGORE, J.

1. By this common order, I propose to address the above-captioned revision petitions, as parties involved are same and issues are closely related. The submissions have also been addressed together in both



the petitions.

2. For the sake of reference, facts are being taken from CR No.6711 of 2018.

3. The challenge in this petition (CR-6711-2018) is directed against the order dated 19.07.2018 (Annexure P-4), whereby learned 1st Appellate Court, allowed the application under Order 1 Rule 10 of the Code of Civil Procedure, 1908 (in short ‘CPC’), moved by applicant- companies, M/s Ritesh Industries Ltd and others through director Roop Kishore Fatehpuria. While in the revision petition (CR No.1342 of 2024), order dated 01.02.2024 (Annexure P-1) is in challenge, whereby learned Civil Judge (Junior Division), Ludhiana, dismissed the application (Annexure P-10), moved by the petitioners/third party objectors, M/s Ritesh Industries and others, seeking to stay the proceedings in Execution Petition No.933 of 2017.

4. At this stage, it would be beneficial to recapitulate the facts briefly to understand the legal and factual issues involved in the petitions, seeking redressal.

5. The petitioner, Surjit Kaur Loety, through General attorney, (the plaintiff before the learned Trial Court), instituted a suit for declaration, permanent and mandatory injunction, against the State of Punjab and others, respondents No.1 to 4, seeking to declare award dated 15.03.1994 passed by the Collector, for acquisition of the land by the State, as illegal, null and void, qua 1/2 share of the plaintiff in the land measuring 9705 square yards, forming part of Khata No.133/165, Khasra Nos.22//14, 17/1, 24 situated at village Mundian Khurd, Tehsil and District Ludhiana, on various grounds



as detailed in the plaint and to restore the possession of the land of her share. From the facts on record, land admeasuring 800 acres, including the land of the plaintiff falling in Khasra No.22//14, 17/1, 24 in village Mundian Khurd, Tehsil and District Ludhiana, was acquired by the State of Punjab through Directorate of Industries, to develop Focal Point, Phase 8, Dhandari Kalan, Ludhiana. Accordingly, an award dated 15.03.1994 was passed. 40 acres of land vide letter No.US-337-U dated 22.04.1994 issued by Directorate of Industries, Punjab, Chandigarh was allotted to Ritesh Industries (respondent No.5) and sale deeds were executed in favour of respondent No.5. Based on such allotment, possession was also delivered to respondent No.5, who claimed to have developed the area by spending huge amount. Respondents No.6 to 9, being sister concerns of respondent No.5, claimed to be owners in possession of the land measuring 40 acres, on the basis of allotment.

6. The civil suit, as filed by the petitioner, was decreed in her favour vide judgment and decree dated 26.07.2016 (Annexure P-1). The State, respondents No.1 to 4, preferred the appeal which is statedly pending before the 1st Appellate Court for adjudication. It is during the pendency of the appeal, respondents No.5 to 9, moved an application, under Order 1 Rule 10 CPC, seeking their impleadment in the appeal claiming them to be necessary parties to the suit/appeal, raising several pleas and facts in support of their claim, primarily claiming them to be owner in possession of 40 acres of the acquired land, as allottees.

7. The application was resisted by the petitioner. The learned 1st Appellate Court, on appraisal of the respective pleadings of the parties and the evidence placed in support thereof allowed the application, permitting



respondent No.2 to be impleaded as respondent, in the appeal, vide the impugned order dated 19.07.2018 (Annexure P-4).

8. Learned counsel for the petitioner submits that impugned order is against the basic tenets of Order 1 Rule 10 CPC. It is settled position of law that impleadment of a person as a party is permissible only when presence of such a party is necessary for the effective and complete adjudication of the issues involved in the *lis*. In the civil suit filed by the petitioner, the issue was to the legality of award dated 15.03.1994 passed by the Collector, challenging the impropriety of the procedure adopted by the State, while acquiring the land and non-payment of compensation to the petitioner. The presence of respondents No.5 to 9 was not necessary for the adjudication of the issues raised by the petitioner in the civil suit.

9. Learned counsel further contends that it is trite law that plaintiff is the master of his suit and cannot be compelled to implead a person against whom the plaintiff claims no relief. In the civil suit, no relief was claimed against respondents No 5 to 9. Learned counsel submits that it is also an established principle of law that if a person is not a party to the suit/proceedings, then the decree/order passed in said suit is not binding upon him. Therefore, the plea that judgment and decree dated 26.07.2016 (Annexure P-1) affects respondents No.5 to 9 is ill-founded. It is stated that respondents No.5 to 9 have no concern with the suit land. The alleged allotment on which the application was based, stands cancelled in their favour. This fact was recorded by the learned State Counsel on behalf of the State of Punjab and was duly noted by the learned 1st Appellate Court in the impugned order, however, same was conveniently ignored, while deciding



the application (Annexure P-2). Learned counsel submits that once the State made a statement that allotment in favour of respondents No.5 to 9, stands cancelled, they have no right, interest in the property involved and the award, subject matter of the suit. They were not necessary or even proper parties to be impleaded in the suit. In these circumstances, their presence in the decision of appeal is not at all necessary in either capacity, as a defender or a prosecutor of the appeal. The observations made by learned 1st Appellate Court drawing the conclusions, holding respondent No.2 as necessary party in appeal, are, therefore, indefensible in the eyes of law and should be set aside.

10. It is further submitted by learned counsel for the petitioner/plaintiff that application moved by respondents No.5 to 9 was vague, without specifying which of the companies was to be impleaded. Furthermore, the application should have been filed before the learned Trial Court, and not in the appeal. No application for impleadment at appellate stage is maintainable. Learned counsel submits that the learned 1st Appellate Court fell in grave error in allowing the application, placing reliance on the case law titled *Haryana State Industrial Development Corporation Limited Vs. Udal and others etc., 2013 (3) Apex Court Judgments (SC) 441; Union of India and others Vs. Special Tehsildar (ZA) and others, 1996 (2) SCC 332; Vishal Goyal Vs. Vishranti City Residents Welfare Society and others, 2017(16) SCC 453* and judgment of Kerala High Court in *Subash Vs. Patharam Educational & Cultural Society, 2012(4) KerLJ 177*, which were inapplicable to the facts of the present case. A prayer is made to allow the revision petition and set aside the order. In support of his contention, he has



referred to the judgments of Hon'ble the Supreme Court of India in *Mohamed Hussain Gulam Ali Shariffi Vs. Municipal Corporation of Greater Bombay and others, 2020 (14) SCC 392; Vidur Impex and Traders Pvt. Ltd. and others Vs. Tosh Apartments Pvt. Ltd. and others, 2012(8) SCC 384; Mumbai International Airport Pvt. Ltd. Vs. Regency Convention Centre & Hotels Pvt. Ltd. and others, 2010 (7) SCC 417* and of this Court in *Hazura Singh Vs. Sukhdev Singh, 1996 (3) RCR (Civil) 419.*

11. Contrarily, learned counsel for respondents No.5 to 9 argued that respondent No.5, M/s Ritesh Industries Ltd. is now known as Ritesh Properties and Industries Ltd. Respondents No.2 to 5 were the sister companies of respondent No.5, duly incorporated as per the Companies Act, 2013. Respondents No.6 to 8 have been amalgamated with respondent No.5, as per order dated 18.08.2021 (Annexure R-1), passed by NCLT, New Delhi Bench (appended with CM-22514-CII-2023). The respondent No.5 is the proprietor of respondent No.9.

12. Learned counsel contends that dispute started with acquisition of land, measuring 800 acres, by the State of Punjab. Out of which, the petitioner/plaintiff owned 1/2 share out of 9705 square yards and award dated 15.03.1994 was passed. 40 acres of land was allotted to M/s Ritesh Industries Ltd. Subsequently, conveyance deeds were executed in favour of M/s Ritesh Industries Ltd. and its group companies and mutations were also sanctioned in their favour and possession was also delivered.

13. Learned counsel submits that petitioner/plaintiff, filed a suit for declaration, challenging the award of acquisition dated 15.03.1994 and also sought mandatory injunction, directing respondents No.1 to 4, to restore the



possession of above land to her. Learned counsel submits that petitioner was well aware that land measuring 40 acres was allotted to respondents No.5 to 9 and they were never made a party in the civil suit. In this regard reference was made to the pleadings raised by the petitioner/plaintiff wherein she referred to the allotment of land to respondents No.5 to 9.

14. Learned counsel contends that respondents No.5 to 9 are owners in possession of 40 acres of land out of 800 acres acquired by respondents No.1 to 4. They are necessary and material parties. The Civil Court vide decree dated 26.07.2016 (Annexure P-1) directed respondents No.1 to 4 to restore the possession of the above land and outcome of these proceedings have a direct impact on their right of ownership and possession of the land.

15. Learned counsel submits that in the appeal, preferred by respondents No.1 to 4, which is currently pending before the 1st Appellate Court, respondents No.5 to 9 filed an application under Order 1 Rule 10 CPC taking plea of allotment of the suit land to them by respondents No.1 to 4, consequently their ownership and possession. The petitioner contested the application, filed the reply dated 20.04.2018 (Annexure P-3). Learned 1st Appellate Court, while allowing the application vide order dated 19.07.2018 (Annexure P-4) rightly noted that respondents are necessary parties, as they have direct interest in the suit land.

16. Learned counsel submits that the power of the learned Trial Court, as envisaged under Order 1 Rule 10(2) CPC, can as well be exercised by the learned 1st Appellate Court, as per Section 107 of CPC. In this regard, amendment was inserted to Section 107(2) CPC, empowering the learned 1st Appellate Court to have the same powers and perform as nearly as may be



the same duties as are conferred and imposed by the CPC on the Courts of original jurisdiction. Learned counsel submits that in *Haryana State Industrial Development Corporation Limited's case (supra)*, relied upon by learned 1st Appellate Court, may have distinguishable facts but the Hon'ble Apex Court, after considering the other decisions, culled out the general principles in para 8 of the judgment holding that the Appellate Court has inherent powers to permit parties to be added to appeal in a suitable case and the jurisdiction under Order 1 Rule 10 (2) CPC can be exercised by virtue of Section 107(2) CPC.

17. Learned counsel for respondents No.5 to 9, contends that allotment of land made in their favour by the department has never been cancelled and refers to order of Hon'ble the Supreme Court dated 14.02.2000 passed in SLP, which was also mentioned to by the petitioner/plaintiff in her plaint. The reference was also made to the facts submitted by the State (defendants No.1 to 4 before learned Trial Court), in the written statement, which pleads allotment of 40 acres of land to respondents No.5 to 9 and concealment of the civil suit contested by her against Ritesh Industries, Ludhiana. The learned counsel states that even if the cancellation of allotment of land in favor of respondents No. 5 to 9 is accepted (though not admitted by the respondents No. 5 to 9), this debatable issue must be decided by the learned Court. Furthermore, the possession of the respondents No. 5 to 9 over the suit property (40 acres) is not denied by the petitioner. In these facts and circumstances, the presence of respondents No.5 to 9 is necessary for the complete decision of the controversy in question.



18. Learned counsel submits that learned 1st Appellate Court noted the facts regarding the allotment of land to respondents No.5 to 9, their subsequent possession and the petitioner/plaintiff's admission of these facts in the plaint, alongwith the registration of the FIR against the petitioner for demolition of outer wall of the property of respondents No.5 to 9. It is stated by the learned counsel that the petitioner has sought, both a decree of declaration and injunction with respect to the suit land, which directly affects the claims of the respondents No. 5 to 9, in the suit land. Therefore, respondents No. 5 to 9 are not strangers to the case. The learned 1st Appellate Court rightly observed that respondents No.5 to 9 have a direct interest in the suit property and the decree would impact their alleged rights. Consequently, their presence is necessary for the adjudication of the matter at issue. It is stated that the impugned order is valid in the eyes of law. There is no merit in the petition and same be dismissed and a prayer was made for vacation of stay granted by this Court on 04.10.2018.

19. Learned State counsel by way of reply dated 19.09.2024 of Ms. Promila Sharma, PCS, Collector, Land Acquisition, Department of Industries and Commerce, Punjab, stated that land allotted to M/s Ritesh Industries, Ludhiana was never cancelled as per their available record. Learned State counsel in support of the arguments placed on record the attested copy of the statement of Ravinder Singh, Superintendent, attested by Superintendent (LAC), Department of Industries and Commerce, given before the learned Civil Judge (Junior Division), Ludhiana, and the copy of Email dated 24.09.2024 given by the learned counsel for the petitioner, Surjit Kaur Loety, acknowledging that documents of cancellation were not



available with her.

20. To rebut the contentions of the counsel for the respondents, the learned counsel for the petitioner, referred to the judgment of Delhi High Court in **Ritesh Properties & Industries Ltd. Vs. YouTube LLC and others, 2019 SCC online Del 10454**, wherein it was noted in para 5, regarding the cancellation of allotment of land by the High Court made to respondent No.5- Ritesh Properties and non production of any document of re-allotment in its favor. The learned counsel for the petitioners contends that State has filed a wrong statement, contrary to its earlier stand, as noted by the learned 1st Appellate Court in the order, impugned herein. Necessary inquiry needs to be made.

21. I have heard learned counsel for the parties, have gone through the paper-book, the documents appended and the impugned order in the light of their submissions.

22. At this juncture, it is desirable to note certain undisputed facts. It is admitted fact that State of Punjab, acquired 800 acres of land, including the land owned by petitioner, falling in Khasra Nos No.22//14, 17/1, 24, situated at village Mundian Khurd, Tehsil and District Ludhiana. It is also an admitted fact that out of 800 acres of acquired land, 40 acres of land was allotted to respondent No.5 vide letter No.US-337-U dated 22.04.1994 and sale deeds were executed in favour of respondent No.5 and its group companies/the applicants.

23. Learned 1st Appellate Court considered all the documents such as allotment letters, conveyance deeds, Indenture dated 11.12.1996; and 23.11.1998 between the respondent No. 5 and Punjab government. The



approval of revised layout plan of the suit property dated 31.05.2017., executed by respondents No.1 to 4, in favour of respondent No.5 and its group companies, indicating the allotment of land in their favour as well as execution of sale deeds and delivery of possession to them. The learned 1st Appellate Court also noted the lodging of FIR No.452 dated 05.12.2017 against the petitioner and others under Sections 148, 447, 511, 427, 506 and 148 IPC, at Police Station Focal Point, Ludhiana, at the instance of respondents No.5 to 9 and acknowledgment by the petitioner/plaintiff in the plaint regarding the allotment of land including the suit land to respondent No.5. However, she pleaded that said allotment was cancelled by the High Court. She also referred to the passing of order by Hon'ble the Supreme Court dated 14.02.2000, in an appeal preferred by respondent No.5. In the written statement, respondents No.1 and 4 also pleaded about the civil suit between her and M/s Ritesh Industries (respondent No.5). The learned 1st Appellate Court in para No.3 of the impugned order also noted the submissions of the learned Government Pleader about cancellation of the allotment in favour of respondent No.5. However, at the same time, learned 1st Appellate Court noted the submissions of respondent No. 5 to 9 that the land was re-allotted to respondent No.5, and this fact was concealed by the petitioner/plaintiff.

24. In the present revision petition, respondent No.4 in its reply has stated that allotment in favor of respondent No.5, was never cancelled as per their available record and also placed an attested copy of the statement of Ravinder Singh, Superintendent dated 02.11.2015, attested by Superintendent (LAC), Department of Industries and Commerce, given



before the learned Civil Judge (Junior Division), Ludhiana, stating that allotment of land to M/s Ritesh industries was never cancelled.

25. In this factual backdrop, let the legal position with respect to the impleadment of a person as party to the proceedings in a law suit be dilated upon. Admittedly, respondents No.5 to 9, were not arrayed by the petitioner/plaintiff, as party in Civil Suit No.668 dated 29.09.2007 leading to passing of judgment and decree dated 26.07.2016 (Annexure P-1). Respondents No.5 to 9 were impleaded in appeal vide the impugned order dated 19.07.2018, while allowing their application (Annexure P-4).

26. At this stage, it is relevant to go through the provisions of Section 107 CPC, Order 41 Rule 20 CPC and order 1 Rule 10 CPC:-

Section 107 CPC, reads as under:-

“107. Powers of Appellate Court.—(1) Subject to such conditions and limitations as may be prescribed, an Appellate Court shall have power—

- (a) to determine a case finally;
- (b) to remand a case;
- (c) to frame issues and refer them for trial;
- (d) to take additional evidence or to require such evidence to be taken.

(2) Subject as aforesaid, the Appellate Court shall have the same powers and shall perform as nearly as may be the same duties as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted therein.”

Order 41 Rule 20 CPC, provides as under:-

“ORDER XLI

APPEALS FROM ORIGINAL DECREES

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20. Power to adjourn hearing and direct persons appearing



interested to be made respondents. —

(1) Where it appears to the Court at the hearing that any person who was a party to the suit in the Court from whose decree the appeal is preferred, but who has not been made a party to the appeal, is interested in the result of the appeal, the Court may adjourn the hearing to a future day to be fixed by the Court and direct that such person be made a respondent.

(2) No respondent shall be added under this rule, after the expiry of the period of limitation for appeal, unless the Court, for reasons to be recorded, allows that to be done, on such terms as to costs as it thinks fit.”

ORDER 1 Rule 10 CPC

Parties to suits

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10. Suit in name of wrong plaintiff.— (1) Where a suit has been instituted in the name of the wrong person as plaintiff or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may at any stage of the suit, if satisfied that the suit has been instituted through a *bona fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff upon such terms as the Court thinks just.

(2) **Court may strike out or add parties.**—The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.



(3) No person shall be added as a plaintiff suing without a next friend or as the next friend of a plaintiff under any disability without his consent.

(4) **Where defendant added, plaint to be amended.**—Where a defendant is added, the plaint shall, unless the Court otherwise directs, be amended in such manner as may be necessary, and amended copies of the summons and of the plaint shall be served on the new defendant and, if the Court thinks fit, on the original defendant

(5) Subject to the provisions of the Indian Limitation Act, 1877 (XV of 1877), section 22, the proceedings as against any person added as defendant shall be deemed to have begun only on the service of the summons.”

27. The plain reading of Section 107 CPC, indicates that powers of the Appellate Court to implead parties are circumscribed by Order 41 Rule 20 CPC, which is subject to such conditions and limitations as prescribed therein. However, it is held in plethora of judgments that in the circumstances, where it appears right and proper for the Court to add the parties to the proceedings, be added as parties even at the Appellate stage. However, before exercising the power, the Court must ensure that circumstances are exceptional and must be such as renders it really necessary in the interest of original parties to the suit, that some other persons should be added, so that matter originally in the dispute may be properly adjudicated upon and finally determined as between the original parties. No doubt, plaintiff is a *dominus litis*. No one can be added as a party to the suit against his desire. However, a person asking for impleadment as a party, when shows he is necessary party and for effective



and complete adjudication of the matter, his presence is required, he can be added as a party. Furthermore, it has been held in numerous decisions that Appellate Court has inherent power to permit parties to be added to appeal in suitable cases and language of Rule 20 of Order 41 CPC is not exclusive and exhaustive, so as to deprive the Appellate Court of the inherent powers in this respect.

28. Once it is clear that Rule 20 of Order 41 CPC, is not exhaustive of the powers of the Appellate Court for impleading or adding parties to the appeal, certainly power under Order 1 Rule 10 CPC read with Section 107(2) CPC and under other appropriate provisions including Section 151 CPC in proper cases can be availed of, even in appeals. Order 1 Rule 10 CPC, gives the Court the power to add a party if they are necessary and proper party to the dispute. The Court can do this to ensure that all the questions are effectively and completely adjudicated upon and settled.

29. Reverting back to the impugned order. Learned 1st Appellate Court, noticed all the material facts of the case, including the pleadings of the parties, particularly of the petitioner/plaintiff, where she admits allotment of the suit land to respondent No.5, and her claim for restoration of possession, which was essentially from respondent No.5 and its subsidiary companies, the presence of respondent No.5, certainly becomes necessary for the complete and effective adjudication of the matter in controversy. It is an undisputed fact that petitioner/plaintiff has filed the execution petition, seeking implementation of decree (Annexure P-1) by way of restoration of the possession of the suit land. The respondents No.5 to 9 are claiming that execution proceedings have affected their rights of ownership and



possession in the suit property based on allotment of land to them. The respondents cannot in given facts be taken as third person, having no concern with the land. It is admitted position that petitioner/plaintiff had earlier filed a suit for permanent injunction against the defendant and subsequent to that filed the suit for declaration challenging the award and seeking restoration of possession of the aquired land without impleading the respondents No.5 to 9, at the same time admitting in her pleadings about the allotment of the suit land in favor of respondents No.5 to 9. However, the claim of cancellation of allotment or its re-allotment, if any, in favor of respondents No.5 to 9 and their claim of being in possession of suit land, have material bearing, for the just and complete adjudication of the matter in controversy. It is one of the case that falls under exceptional cases, requiring impleadment of respondents No.5 to 9 through their parent company. There is no gain saying that necessary party as observed in catena of authorities is the one, in whose absence suit cannot be decided either finally or effectively or no relief can be granted to the plaintiff.

30. As a sequel to the foregoing discussion, it is held that the learned 1st Appellate Court has rightly exercised the jurisdiction that vested in it and the impugned order does not suffer from any illegality, irregularity, infirmity or perversity so as to warrant any intervention by this Court. As far as the judgments cited by learned counsel for the petitioner Surjit Kaur Loety, is concerned, there is no doubt on the proposition of law discussed therein, but same are distinguishable on their facts as well as the principle of law discussed above. Accordingly, the Revision petition No.6711 of 2018, is dismissed. The order dated 04.10.2018 stands vacated.



31. In CR No.1342 of 2024, the petitioners have challenged order dated 01.02.2024 (Annexure P-1) passed by the learned Civil Judge (Junior Division), Ludhiana, in execution petition No.933 of 2017 titled 'Surjit Kaur Vs. State of Punjab', vide which the learned Trial Court dismissed the application for stay of execution proceedings.

32. Learned counsel for the petitioners M/s Ritesh Properties And Industries Limited And others, submits that continuation of execution proceedings at the instance of respondent No.5, Surjit Kaur Loety, shall prejudice the rights of petitioners in appeal, whereby their application for impleadment has been allowed and rights of the parties in the suit property are to be adjudicated upon. A prayer has been made to set aside the order and execution proceedings be stayed.

33. Contra, learned counsel for respondent No.5 defended the order, stating that suit for declaration, mandatory injunction and permanent injunction filed by respondent No.5, has decreed in her favour and she is rightfully pursuing her remedy. No valid ground is made out to allow the petition. Furthermore, learned counsel submits that the present revision petition is not maintainable as resolution relied upon by the petitioners lacks authorization to file the instant petition.

34. In response, learned counsel for the petitioners contends that issue of any defect in the resolution is a matter of irregularity and can be rectified. Therefore, the petition should not be dismissed on this ground alone.

35. The impugned order dated 01.02.2024 (Annexure P-1) is perused, which indicates that issues have been framed on objections filed by



petitioners against the execution petition filed by respondent No.5. The evidence of the objectors is going on. The reasons assigned by the learned Executing Court declining to stay the proceedings are valid. At this stage, no good ground is made out to stay the proceedings before the learned Executing Court, merely that appeal is pending before the learned 1st Appellate Court. The petitioners who have been arrayed as respondents, in the appeal, may apply for stay of the decree, as per Order 41 Rule 5 CPC. Hence, their prayer for stay of execution decree is dismissed. They are relegated to seek remedy under Order 41 Rule 5 CPC.

36. Consequently, instant revision petition (CR No.1342 of 2024) is also dismissed. Resultantly, the issue as to the maintainability of the petition on the ground of lack of authority in the resolution is rendered purely academic.

37. It is noted that observations made above should not be construed as an expression of opinion on the merits of the case. Same are purely confined to the present controversy and deliberations.

38. Pending miscellaneous application(s), if any, is/are disposed of accordingly.

SEPTEMBER 26, 2024

d.gulati

(RITU TAGORE)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No